

Sixth Appellate District

San Jose, California

TUESDAY, FEBRUARY 22, 2005

IN THE MATTER OF THE DESTRUCTION OF COURT RECORDS

By The Court:

This court having been advised by the State Records Center that certain civil records preserved for a period longer than 10 years are eligible for destruction as provided by rule 70(c) of the California Rules of Court, and good cause appearing, it is hereby ordered that said civil records designated in Records Transfer Lists 42 and 44 be scheduled for destruction.

Dated: February 22, 2005 Rushing, P.J.

H027623 PEOPLE v. PHAM

The judgment is reversed. The matter is remanded to the trial court for resentencing and further proceedings pursuant to Penal Code section 978.8. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 22, 2005

H026440 PEOPLE v. MARTINEZ, JR.

By the Court:

Upon the court's own motion, the submission order in the above-entitled cause filed December 7, 2004, is hereby vacated to allow the matter to be set for oral argument. Oral argument in the above entitled cause will be set on the court's calendar, counsel to be advised of the date and time. The matter will be resubmitted upon completion of oral argument.

Dated: February 22, 2005 Rushing, P.J.

WEDNESDAY, FEBRUARY 23, 2005

H027647 PEOPLE v. NOTTINGHAM

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed February 23, 2005

Sixth Appellate District

San Jose, California

Wednesday, February 23, 2005 (continued)

H026624 PEOPLE v. JESSE H.

The true finding as to counts 3 and 5, and as to the gang enhancements in counts 1, 2, and 4, are stricken. The juvenile court order of jurisdiction is otherwise affirmed. The disposition order of October 14, 2003 is reversed. The matter is remanded for a new disposition order. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed February 23, 2005

H026504 PEOPLE v. RICHARD G.

The order under review is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed February 23, 2005

H027186 PEOPLE v. SOTO

The cause herein is ordered submitted.

Dated: February 23, 2005 RUSHING, P.J.

H027998 PEOPLE v. YANEZ

The \$600 restitution fine imposed on August 31, 2004 is stricken and the judgment is modified to impose a \$200 restitution fine (\$1202.4, subd.(b)) and a \$200 parole revocation restitution fine, which is suspended unless parole is revoked (\$1202.45). As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the modifications. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 23, 2005

H026920 PEOPLE v. JONES

(Filed order modifying opinion.) This modification does not effect a change in the judgment. (not published)

(Bamattre-Manoukian, Acting P.J., Mihara, J., McAdams, J.)

Filed February 23, 2005

Sixth Appellate District

San Jose, California

THURSDAY, FEBRUARY 24, 2005

H026680 PEOPLE v. HARTLESS

The judgment is reversed, and the matter is remanded for the limited purpose of resentencing defendant in accordance with the views expressed herein. (See, *People v. Casper, supra*, 33 Cal.4<sup>th</sup>38.) (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Walsh, J.\*)

Filed February 24, 2005

(\*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

H026461 PEOPLE v. RUBALCABA

The judgment is affirmed. (not published)

(Walsh, J.\*; We concur: Rushing, P.J., Premo, J.)

Filed February 24, 2005

(\*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

H026628 MORENO v. CITY OF KING, et al.

By the Court:

The written opinion which was filed January 28, 2005, is certified for publication. (Mihara, J.; Rushing, P.J.)

The written opinion which was filed on January 28, 2005, has now been certified for publication in its entirety pursuant to California Rules of Court, rule 976(b), and it is therefore ordered that it be published in the Official Reports.

Dated: February 24, 2005 Rushing, P.J.

FRIDAY, FEBRUARY 25, 2005

H026747 MINARD v. MINARD

The judgment is affirmed. Respondent shall have her costs on appeal. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed February 25, 2005

H027996 PEOPLE v. DUNLAP

H027462 PEOPLE v. STOKES

The cause herein is ordered submitted.

Dated: February 25, 2005 BAMATTRE-MANOUKIAN, Acting P.J.

Sixth Appellate District

San Jose, California

Friday, February 25, 2005 (continued)

H027996 PEOPLE v. DUNLAP

The clerk of the superior court is directed to modify the abstract of judgment in case No. SS032176 in the following respects: (1) the restitution fines of \$200, pursuant to Penal Code section 1202.4, subdivision (b) and Penal Code section 1202.45 shall be stricken; (2) the total time imposed shall be corrected to read eight months. The abstract of judgment in case No. SS033109 shall be amended in the following respects: 1) the restitution fines pursuant to Penal Code section 1202.4, subdivision (b), and Penal Code section 1202.45 shall be reduced from \$1000 to \$200; 2) a victim restitution fine of \$600, pursuant to Penal Code, section 1202.4, subdivision (f), shall be added. The clerk of the superior court is directed to forward the amended abstracts of judgment to the Department of Corrections. As so modified, the judgments are affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed February 25, 2005

H027317 PEOPLE v. GANDARILLA

H027221 PEOPLE v. GANDARILLA

The judgment of conviction is affirmed. (not published)  
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed February 25, 2005

H024976 PEOPLE v. GUZMAN, et al.

As to each defendant, two of the three multiple-murder special-circumstance findings are ordered stricken. The trial court is directed to amend the abstracts of judgment accordingly. As modified, the judgment is affirmed. (not published)

(McAdams, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 25, 2005

H026988 PEOPLE v. MARTINEZ

The judgment is modified to reflect a total of 195 days of credit. The clerk of the superior court is directed to prepare an amended abstract of judgment. As modified, the judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed February 25, 2005

Sixth Appellate District

San Jose, California

Friday, February 25, 2005 (continued)

H027128 PEOPLE v. ADKINS

The judgment is affirmed. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed February 25, 2005

H027348 PEOPLE v. ANDERSON

The judgment is reversed and the matter is remanded to the trial court for the limited purpose of re-sentencing on the charge in count 1 of second-degree robbery. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed February 25, 2005

H026462 PEOPLE v. ROMAN

The judgment is reversed. The Superior Court is directed to enter convictions on counts 2 and 4 for violating section 288, subdivision (a) and to resentence defendant. (not published)  
(Rushing, P.J.; We concur: Premo, J., Elia, J.)  
Filed February 25, 2005

H027841 In re JOANNA P., et al.; DFCS v. DULCIE P.

The juvenile court's order is affirmed. (not published)  
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)  
Filed February 25, 2005